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PATENT
Attorney Docket No.: 011823-002660US

Assistant Commissioner for Patents
Washington, D.C. 20231

On March 7, 2003

TOWNSEND and TOWNSEND and CREW LLP

By: *Paula Funes Hurley*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Cary L. Queen et al.

Application No.: 09/718,998

Filed: November 22, 2000

For: IMPROVED HUMANIZED
IMMONOGLOBULINS

Examiner: Anne L. Holleran

Art Unit: 1642

RESPONSE TO RESTRICTION
REQUIREMENT

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Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement mailed January 15, 2003,
applicants elect group II with traverse.

The basis for traverse was previously discussed between the Examiner and the undersigned in a telephone interview on March 14, 2003. In brief, US 5,693,761, a predecessor case from which priority is claimed, contains claims directed to similar subject matter to both the group I and group II claims (albeit in the context of polynucleotides encoding immunoglobulin chains). Exemplary claims from US 5,693,761 are listed below (with the most relevant parts bolded).

7. First and second polynucleotides
respectively encoding heavy and light chain variable

regions of a humanized immunoglobulin having complementarity determining regions (CDRs) from a donor immunoglobulin and heavy and light chain variable region frameworks from acceptor immunoglobulin heavy and light chain frameworks, which humanized immunoglobulin specifically binds to an antigen with an affinity constant of at least about 10^{+8} M^{-1} and no greater than about four-fold that of the donor immunoglobulin, **wherein the sequence of the acceptor immunoglobulin heavy chain variable region framework is a consensus sequence of human immunoglobulin heavy chain variable region frameworks.**

10. First and second polynucleotides respectively encoding heavy and light chain variable regions of a humanized immunoglobulin having complementarity determining regions (CDRs) from a donor immunoglobulin and heavy and light chain variable region frameworks from human acceptor immunoglobulin heavy and light chains, which humanized immunoglobulin specifically binds to an antigen with an affinity constant of at least about 10^{+8} M^{-1} and no greater than about four-fold that of the donor immunoglobulin, wherein said humanized immunoglobulin heavy chain comprises one or more amino acids from the donor immunoglobulin heavy chain framework outside the Kabat and Chothia CDRs, **wherein the donor amino acids substitute for corresponding amino acids in the acceptor immunoglobulin heavy chain framework, and each of**

these said donor amino acids:

(I) is adjacent to a CDR in the donor immunoglobulin sequence, or

(II) contains an atom within a distance of 6 .ANG. of a CDR in said humanized immunoglobulin.

Because claims analogous to both of the present groups have been searched, examined and issued in the same previous patent, it is submitted that the burden in examining the claims from the two groups together here would not be undue. Reconsideration is therefore respectfully requested.

Applicants note Carter, USSN 09/366,004 filed August 2, 1999, may have claims directed to humanized antibodies with consensus framework sequences. However, the '004 application has an earliest claimed priority of June 14, 1991, whereas the present application has a priority of at least February 13, 1989. Therefore, the '004 application is not prior art to the present case.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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